

PATENT

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Applicant: David A. Scheidmantal

SEP 14 2004

For: ARMREST WITH SIDE IMPACT RESISTANCE FEATURE

Serial No.: 10/604,697 Examiner: Gregory A. Blankenship

Filed: August 11, 2003 Group Art Unit: 3612

Atty. Docket: 70639-0025 Confirmation No.: 1696

CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.8(a))

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Rebecca L. Shilt
(type or print name of person certifying)Date: 9.14 2004Commissioner for Patents
Washington, D.C. 20231

Sir:

RESPONSE TO OFFICE ACTION
REQUIRING ELECTION OF SPECIES

This paper is in response to the Office action mailed August 13, 2004. In the Office action, an election of species was required between the following allegedly patentably distinct species:

Examiner's Species A: arm rest;

Examiner's Species B: vehicular trim component.

The Examiner asserts that no claim is generic.

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The Election Requirement is traversed. Applicant respectfully requests that the Examiner consider the withdrawal of the restriction requirement in light of the arguments advanced herein. Alternatively, Applicant provisionally elects the claims of Species A as indicated below.

In restricting the Applicant's application to one of the above-identified groups, the Examiner has made too narrow a restriction requirement.

The Applicant believes that the Species A claims are a species of the claims identified by the Examiner as Species B claims. Claims 1-62 (Species A) relate generally to a vehicle arm rest having a collapsible or deflectable portion and a cover, while claims 63-124 (Species B) relate generally to a vehicular trim component having a collapsible or deflectable portion and a cover. An arm rest is a species of vehicular trim component.

Whether examining an arm rest or a vehicular trim component, the invention has a single, unifying concept of a collapsible or deformable feature.

This single unifying concept is prevalent throughout the claims as filed with the application. The embodiments described in both groups of the claims do not differ conceptually, but rather differ in the particular aspect of the invention, namely, whether a vehicular trim component or the more limited arm rest is claimed. The claims describing each of these aspects have this unifying concept. Thus, regardless of which species is elected, the search and prosecution of the application would be the same. For this reason, it does not make sense to have separate patents issue to the Species A and Species B claims.

A prior art search for patents relevant to the patentability of the Applicant's invention can be performed simply and efficiently by the Examiner. The MPEP provides that a restriction is proper if the application contains a multiplicity of inventions so that an unduly extensive and burdensome search is required. However, this is not the case with Applicant's patent application. Rather, the above-identified single unifying concept defining the Applicant's invention would not appear to necessitate an unduly extensive or a burdensome search by the Examiner. The search must be performed within essentially the same area to uncover potentially relevant prior art.

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Further, if the Examiner's requirement for restriction is maintained, the Applicant would be required to file additional patent applications containing the alleged patentably distinct inventions identified by the Examiner. If all of those patent applications were allowed, the net result would be several patents that claim closely related inventions differing only by a particular embodiment. Applicant respectfully asserts that the Examiner's restriction requirement is inappropriate.

For the reasons discussed above, Applicant requests reconsideration and withdrawal of the restriction requirement made by the Examiner. Applicant further requests that the application as filed be substantively examined with respect to all of the claims filed with the application with the single unifying concept described above being the focus of the Examiner's efforts.

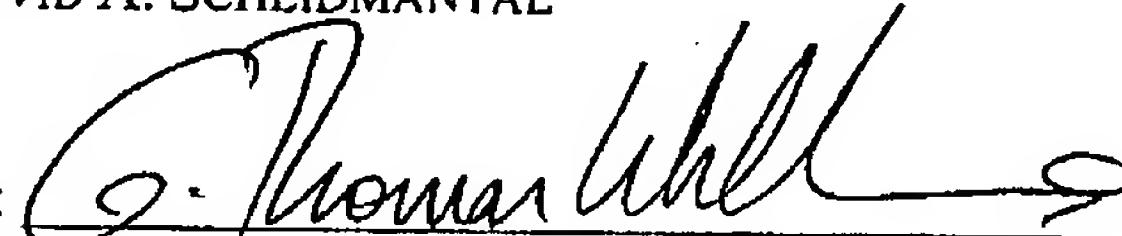
Should the Examiner be unpersuaded by the arguments advanced herein, Applicant provisionally elects with traverse claims 1-62 which are readable on the Examiner's Species A (arm rest), and provisionally cancels without prejudice the claims of Species B of the application.

Respectfully submitted,

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Dated: 14 September 2004

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